In the High Court of Judicature at Madras

Dated : 09.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19410 and 19411 of 2016
& WMP.Nos.16828 and 16829 of 2016

M/s.SVC Projects (P) Ltd., rep.
by its Authorized Signatory
Mr.Venkataramana ...Petitioner in both the Petitions

Vs

1.The Assistant Commissioner (CT),
MMDA Colony Assessment Circle,
Chennai-6.

2.The Joint Commissioner (CT),
Enforcement-I, Greams Road,
Chennai-6.

3.The Assistant Commissioner (CT),
Vadapalani II Assessment Circle,
Greams Road, Chennai-6. ...Respondents in both the Petitions

Prayer in Both the Writ Petitions:

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the first respondent respectively in TIN:33651483446/2008-09 and TIN: 33651483446/2009-10 dated 25.2.2016 (passed by him following the audit report forwarded by the second respondent in VSI 3 No/14/2012-13/Gr-V (Central) dated 19.8.2013), quash the same as being without jurisdiction and contrary to the principles of natural justice and further direct the first respondent to pass orders afresh after considering the objections independently without being influenced by the report of the second respondent and affording personal hearing.

For Petitioner : Mr.V.Sundareswaran
For Respondents : Mr.S.Manoharan Sundaram,
Additional Government pleader

COMMON ORDER

Mr.S.Manohar Sundaram, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petitions are taken up for final disposal.

2. In these writ petitions, the petitioner, who is a dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006, was initially registered with the third respondent, who was their jurisdictional Assessing Officer. A notice came to be issued by the third respondent on 4.9.2013 based on a report submitted by the Enforcement Wing Officials, who inspected the petitioner's place of business. By virtue of the said notice, the third respondent proposed to revise the total and taxable turnover and also to impose penalty. The petitioner submitted their objections to the third respondent on 7.11.2013. In the said objections, they also sought for personal hearing. Along with the objections, the petitioner enclosed documents in the form of annexures. The objections were received by the office of the third respondent, but no further action was initiated.

3. Subsequently, during the year 2014, due to departmental re-organization, the jurisdiction, where the petitioner was carrying on business, fell within the control of the first respondent and consequently, their account stood transferred to the office of the first respondent. Even thereafter, the petitioner was not issued any notice. But, to their surprise, on 25.2.2016, the impugned orders have been passed.

4. On a perusal of the impugned orders, it is seen that the first respondent has not even mentioned the date of the show cause notice and it is not known as to whether it is an inadvertent mistake or otherwise. That apart, there is no reference to the petitioner's objections along with the annexures. Thus, it is established that the impugned proceedings have been passed in utter violation of the principles of natural justice. Since the first respondent is not aware of the petitioner's objections and the show cause notice was issued by the third respondent in 2013, this Court is of the view that the petitioner should be afforded a proper and reasonable opportunity to put forth their case.

5. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned orders of assessment as show cause notices issued by the first respondent. The petitioner is further directed to submit their objections within four weeks from the date of receipt of a copy of this order. Thereafter, the first respondent shall afford an opportunity of personal hearing, peruse the documents that they may produce and pass a reasoned order on merits and in accordance with law. The first respondent is directed to call

for the files from the office of the third respondent and take a comprehensive decision in the matters. Since this Court directed that the impugned orders are to be treated as show cause notices, the question of demanding any tax or penalty from the petitioner at this stage does not arise. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To
1.The Assistant Commissioner (CT),
MMDA Colony Assessment Circle,
No.10, Palaniappa Buildings
Chennai-6.

2.The Joint Commissioner (CT),
Enforcement-I,
PAPJM Buildings
Greams Road, Chennai-6.

3.The Assistant Commissioner (CT),
Vadapalani II Assessment Circle,
Greams Road, Chennai-6.

+1 cc to Mr.V.Sundareswaran Advocates sr.31120
+1 cc to Special Government pleader(Taxes) High Court,
Madras sr.31274

WP.Nos.19410 & 19411 of 2016 &
WMP.Nos.16828 & 16829 of 2016

skv(co)
aa17/06/2016